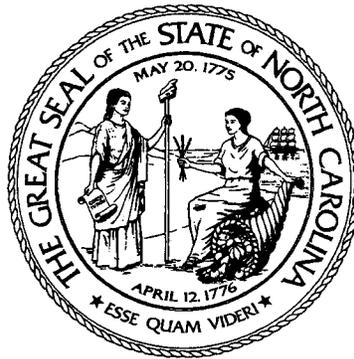


**JOINT LEGISLATIVE COMMISSION ON
SEAFOOD AND AQUACULTURE**



REPORT TO THE
1995 GENERAL ASSEMBLY
OF NORTH CAROLINA
1996 REGULAR SESSION

A LIMITED NUMBER OF COPIES OF THIS REPORT IS AVAILABLE
FOR DISTRIBUTION THROUGH THE LEGISLATIVE LIBRARY.

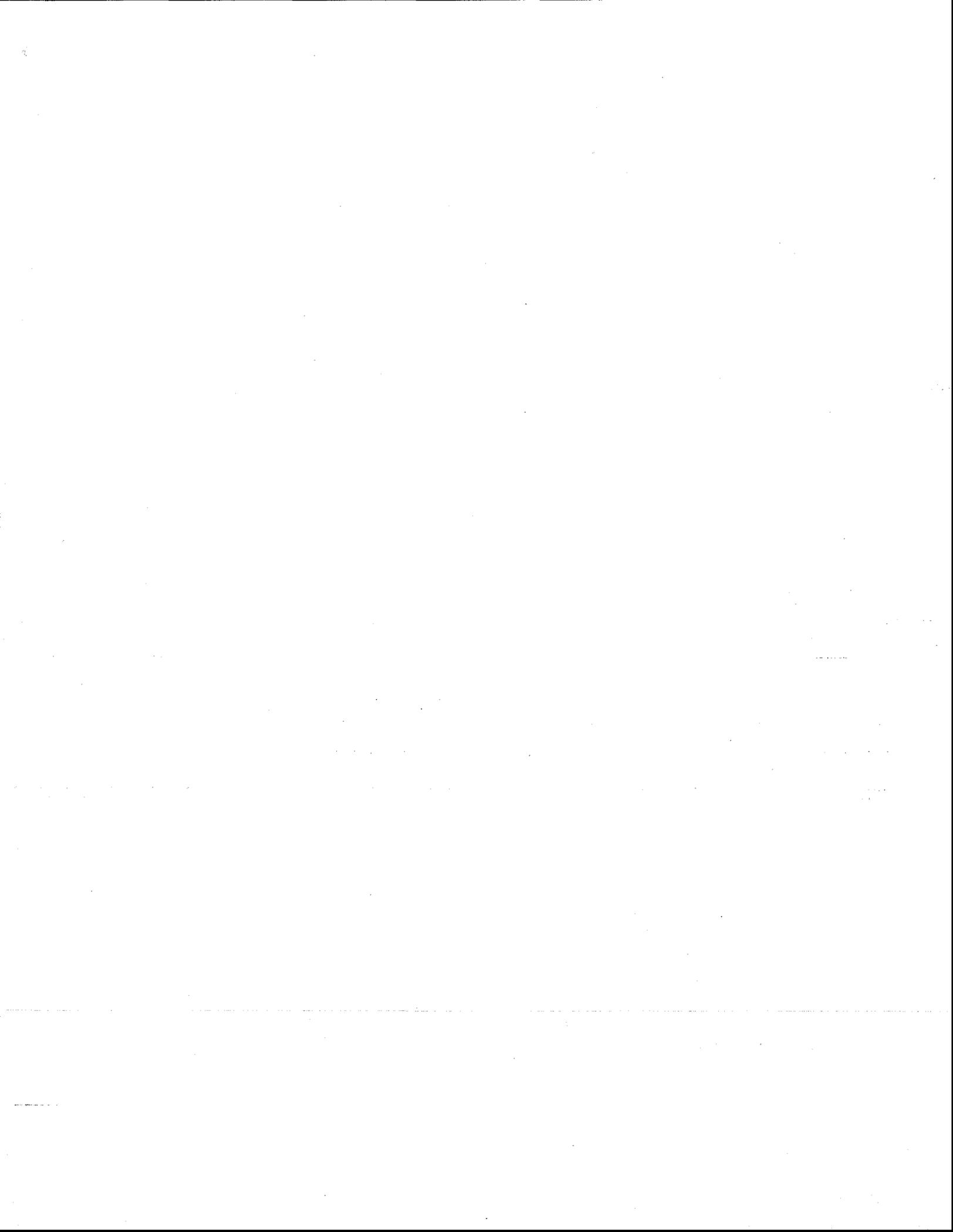
ROOMS 2126, 2226
STATE LEGISLATIVE BUILDING
RALEIGH, NORTH CAROLINA 27611
TELEPHONE: (919) 733-7778

OR

ROOM 500
LEGISLATIVE OFFICE BUILDING
RALEIGH, NORTH CAROLINA 27603-5925
TELEPHONE: (919) 733-9390

TABLE OF CONTENTS

	<u>Page No.</u>
Introduction	1
Recommendations and Discussion	3
Appendix A - Membership List	17
Appendix B - Statutory Authority of Joint Legislative Commission on Seafood and Aquaculture	18
Appendix C - Combined Ratified Fisheries Moratorium Bills ...	20
Appendix D - Moratorium Steering Committee Goals & Objectives	27
Legislative Proposal I: Extend Fisheries Moratorium Report Date	31
Legislative Proposal II: Remove Endorsement to Sell Sunset	32
Legislative Proposal III: Employees on Shellfish Leases/Franchises	33
Legislative Proposal IV: Prohibit Shellfish Leases in Carteret County/Core Banks	35
Legislative Proposal V: Fund Shellfish Sanitation	37
Legislative Proposal VI: Fisheries Resource Grant Program	38



INTRODUCTION

The Joint Legislative Commission on Seafood and Aquaculture (hereinafter the "Joint Legislative Commission") is an independent, permanent legislative commission that has oversight responsibility for issues involving coastal resources, marine issues, and aquaculture. The authorizing legislation for the Joint Legislative Commission may be found in Art. 12F of Chapter 120 of N.C.G.S. 120-70.60, et seq. (See Appendix A). The 15-member Joint Legislative Commission, co-chaired by Senator Charles W. Albertson of Duplin county and Representative Jean R. Preston of Carteret County, has continued to focus its attention during the 1994-96 biennium on the status of fisheries in North Carolina and efforts necessary to restore those resources. (See Appendix B for membership of Commission).

During the 1995-96 fiscal year, the Joint Legislative Commission met seven times and discussed the following issues: (1) preliminary proposals made by the Moratorium Steering Committee; (2) final report from the North Carolina Blue Ribbon Advisory Council on Oysters; (3) discussion concerning Shellfish Lease Program; (4) adoption of rules by the Marine Fisheries Commission and report on appeals of fisheries licenses; (5) report on the effectiveness of the trip ticket program established through the Endorsement to Sell; (6) progress report on implementation of the Fisheries Resource Grant Program; and (7) status report on the National Marine Fisheries Service Closure of Federal Waters to the Harvest of Weakfish.

The Joint Legislative Commission held its final meeting prior to the 1995 (1996 Regular session) Legislative Session on May 8, 1996 to approve their proposed recommendations for the General Assembly. A discussion of recommendations follows.

RECOMMENDATIONS AND DISCUSSION

I. Moratorium Steering Committee

The 1994 General Assembly enacted legislation that created a two-year moratorium (effective July 1, 1994 - July 1, 1996) on new vessel, crab and shellfish licenses and non-vessel endorsements to sell fish. In 1995, the General Assembly extended the moratorium until July 1, 1997 to allow time for public hearings and implementation of any proposals (See Appendix C for summary and text of legislation). The Joint Legislative Commission has continued to carefully monitor the implementation of the moratorium and the appeals process for those persons not eligible for licenses.

Mr. Robert V. Lucas, Chair of the Marine Fisheries Commission and the Moratorium Steering Committee, provided progress reports to the Joint Legislative Commission of the Moratorium Steering Committee. Mr. Lucas divided the Steering Committee into the following subcommittees: (1) License; (2) Marine Fisheries Commission; (3) Law Enforcement; (4) Habitat and Water Quality; and (5) Gear. Each subcommittee held independent public meetings and made progress reports and preliminary recommendations to the full Moratorium Steering Committee.

The Joint Legislative Commission heard reports from Dr. Chuck Manooch, Chair of the Marine Fisheries Commission Subcommittee, who indicated that his

subcommittee was considering proposals to reduce the Commission from 17 to between seven and nine commissioners. This subcommittee was also studying the composition of the Commission as well as the scope of authority of the Commission.

In addition, Mr. Damon Tatem, Chair of the Law Enforcement Subcommittee, and Major Doug Freeman, of the Division of Marine Fisheries Law Enforcement Section, presented the results of their research on a voluntary law enforcement program. This Subcommittee is also developing a point system for fisheries violations, as well as an improved use of law enforcement personnel.

At the March, 1996 meeting, Dr. B. J. Copeland, Director of Sea Grant, and a member of the Moratorium Steering Committee, presented the Moratorium Steering Committee's Preliminary Recommendations. The preliminary recommendations include recognition of a professional commercial fisherman as well as a recreational fisherman. Several alternatives have been proposed to define commercial fishermen including: (1) fishermen who earn 50% of their income from fishing; or (2) fishermen who earn a minimum dollar amount (\$5,000 and \$1,000 have been discussed). In addition, the Steering Committee has drafted a proposal to allow those current part-time fishermen who would not meet the definition of a commercial fisherman, to use restricted commercial gear, provided that they do not sell their catch. Other proposals include: (1) attempting to address how much gear is being used through either charging fees for each individual piece of gear or charging fees based on gear types as part of

the comprehensive Commercial License; (2) a proposed coastal recreational license for recreational fishermen; and (3) measures to protect fisheries habitat and water quality.

The Joint Legislative Commission stressed the importance of the Moratorium Steering Committee to seek public input on the proposals and to incorporate those comments before presenting a final recommendation to the Joint Legislative Commission. Several members of the Joint Legislative Commission asked that the Moratorium Steering Committee prepare a justification for each recommendation. Copies of the Moratorium Steering Committee's "Goals and Objectives During the Marine Fisheries License Moratorium": were made available to members. (See Appendix D).

The Joint Legislative Commission was originally scheduled to make final recommendations concerning the moratorium to the 1996 General Assembly. However, many of the studies funded to help formulate recommendations would not be completed until May, 1996, and could not be incorporated into the Moratorium Steering Committee's recommendations. In addition, the Joint Legislative Commission and the Moratorium Steering Committee believed additional time was necessary to hold approximately 20 hearings. Therefore, the Joint Legislative Commission recommends Legislative Proposal I to provide additional time.

- **Legislative Proposal I: Extend the Date that the Moratorium Steering Committee Makes its Final Report to the Joint**

Legislative Commission to November 1, 1996 and to Extend the Final Reporting Date of the Joint Legislative Commission to the First Day of the 1997 General Assembly.

Finally, under the moratorium, the rule-making authority of the Marine Fisheries Commission is restricted to measures:

1. that prevent further endangerment of the resources;
2. that involve user conflicts; or
3. that are necessary to maintain State control of its own fishery resources in order to avoid the exercise of federal fishery management authority over those resources.

The Joint Legislative Commission expressed concern over the number of rules adopted and whether those rules had been individually evaluated to determine whether they met any of the criteria under the moratorium.

II. Endorsement to Sell/Trip Ticket Program

The Trip Ticket Program was initially recommended by the Joint Legislative Commission in 1993 in an attempt to collect better data to manage our fisheries. Prior to 1994, the commercial landings data was collected voluntarily through surveys and was incomplete. It was recognized that there needed to be a change in the system. The Joint Legislative Commission was persuaded that a mechanism was needed to require reporting of fish harvested and to provide access to computerized information concerning fish caught and landed in North Carolina. An expiration date effective July 1, 1996 was added to

the legislation so that the Joint Legislative Commission would have an opportunity to re-evaluate the effectiveness of the program.

The Division of Marine Fisheries provided several reports on the implementation of the Endorsement to Sell Program. The Division is currently entering the data into a computer system, but does not have adequate programming to access the information by categories. It is anticipated that this data will be used to generate reports detailing the types and amount of fish caught, weight and location to help better manage the fisheries within the State as well as at the federal level. While the data from the trip tickets has been used successfully on a limited basis, the Division of Marine Fisheries believes that the information could be utilized in a more efficient manner if additional funds were available to hire programmers to assess the Division's needs and to write programs to access the information.

The Joint Legislative Commission discussed two major issues relating to the program:

- A. Extension of Program - The current endorsement to sell program is scheduled to expire July 1, 1996. A number of people testified that the data collected through the trip tickets was the best system on the east coast. Numerous fisheries groups including the North Carolina Fisheries Association, and the Coastal Federation, as well as the Marine Fisheries Commission and the Division of Marine Fisheries, requested that the expiration date be removed. In addition, the Attorney General's office demonstrated that the data has been critical

in North Carolina's challenge of federal quotas in a recent weakfish lawsuit. For those reasons, the Joint Legislative Commission recommends Legislative Proposal II.

- **Legislative Proposal II: Remove the Expiration Date on the Endorsement to Sell Program.**

B. Funding - The Division did not anticipate the volume of trip tickets that they currently receive on a monthly basis. While this information is being entered into the computer, the Division is not able to easily access the information. There are currently only two biologists on staff designated to work on the trip ticket program. There was considerable discussion about the use of biologists as opposed to computer professionals to operate the program. Several issues were discussed including: (1) making better use of existing staff by replacing the current biologist positions with computer staff; (2) increasing staff; or increasing fees to cover the cost of the program; or (3) hiring consultants to assess the Division's needs and to draft computer programs to assess the information.

III. Oyster Blue Ribbon Advisory Panel: Final Report

In 1994, the General Assembly enacted legislation to create the Oyster Blue Ribbon Advisory Panel following the recommendation of the Joint Legislative Commission. The 19-member Panel made a number of recommendations to restore the oyster program including the following:

1. Privatize shellfish leases and reduce regulatory requirements.

2. Restore and protect oyster reef habitat by refocusing and increasing oyster enhancement programs and by altering management to reduce destruction of oyster reefs.
3. Restore and protect coastal water quality.
4. Establish and support an industry-based Seafood council to promote demand for oysters and other seafood products.
5. Require the Marine Fisheries Commission to monitor implementation of these recommendations and report progress to the General Assembly annually.

Several of the recommendations relating to protecting and restoring habitat and water quality are also being considered by the Moratorium Steering Committee as those issues impact all of the coastal fisheries. Those recommendations will be considered as part of the overall package of Moratorium recommendations. In addition, the Division of Marine Fisheries Resource Enhancement Section has begun to refocus and increase its oyster enhancement programs and alter management to reduce destruction of oyster reef as recommended by the Advisory Panel.

The Joint Legislative Commission briefly discussed the issues relating to encouraging additional leases through private enterprise and the recommendation that restrictions in state law concerning the shellfish lease program be revised to allow businesses to get leases. The Joint Legislative Commission believes issues that potentially expand the impact on public trust waters have been and continue to be extremely

controversial and need careful review. In addition, several Joint Legislative Commission members expressed concern that the Advisory Panel did not evaluate the feasibility of introducing a foreign oyster that could be a more disease resistant oyster than our native oysters. The Joint Legislative Commission concluded that the shellfish program was more expansive than oysters, and the entire program should be reviewed.

IV. Shellfish Lease Program

A. Shellfish Working Group - The Joint Legislative Commission heard a number of concerns relating to the shellfish program and believes that a thorough review of the program including funding should take place. The Co-Chairs of the Joint Legislative Commission appointed a working group to coordinate information from the Oyster Blue Ribbon Advisory Panel, the Moratorium Steering Committee and the Division of Marine Fisheries concerning changes in the shellfish lease program and to make recommendations including the following issues:

1. Preservation of areas used substantially by commercial and recreational fishermen;
2. Establishment of a maximum percentage of available water body for leases;
3. Restrictions on shellfish lease sizes and whether leases may be contiguous;
4. Production requirements;

5. Evaluation of profitability of leases after a specified period of time;
6. Creation of a mariculture license;
7. Evaluation of procedural issues including whether the Marine Fisheries Commission or the Secretary of the Department of Environment, Health and Natural Resources should have authority to grant leases;
and
8. Other related issues.

The Joint Legislative Commission will review this information and will report to the 1997 General Assembly on its findings and recommendations.

B. Employees on Shellfish Leases and Franchises - In addition, under the moratorium, the shellfish license is only available to individuals who were licensed in 1994, or individuals who receive the license under the appeals process. A number of people who hold shellfish leases or franchises complained that they were unable to hire employees to work their leases because the employees did not have individual shellfish licenses. The General Assembly attempted to address the issue during the 1996 Legislative session by authorizing up to three employees on a shellfish lease. This number appeared to be inadequate for large shellfish leaseholders, and did not apply to franchises. The Joint Legislative Commission was asked to eliminate the requirement for individual shellfish licenses for employees as long as the individual had proof of employment while on the lease or

franchise. To this end, the Joint Legislative Commission recommends Legislative Proposal III:

- **Legislative Proposal III: Allow Employees on Shellfish Leases and Franchises to Work on the Lease or Franchise Without Possessing an Individual Shellfish License.**

C. Carteret County/Core Banks Shellfish Lease - In 1993, the General Assembly enacted legislation to prohibit shellfish leases in Core Sound. The legislation expired on July 1, 1995. The purpose of the legislation was to preserve one of the state's most productive in-shore areas used substantially by commercial and recreational fishermen. The Joint Legislative Commission was asked to introduce legislation to prohibit the issuance of shellfish leases in the Core Banks area from Cape Lookout to Portsmouth Island east of the Channel. The Joint Legislative Commission believes that the state has an obligation to protect public trust rights and that those rights may be invaded if shellfish leases were to be granted in the area. In addition, the Joint Legislative Commission recommended a moratorium be imposed in the remaining area of Carteret County. The Joint Legislative Commission recommends Legislative Proposal IV:

- **Legislative Proposal IV: Prohibit Shellfish Leases in the Core Banks Area and to Impose a Moratorium on New Shellfish Leases in Carteret County.**

- D. Shellfish Sanitation Program - North Carolina is affiliated with the National Shellfish Sanitation Program that is administered by the U. S. FDA. This program has increased the necessary sampling, reports, and surveys in order to be in compliance with the federal program. The Joint Legislative Commission recommends Legislative Proposal V to increase the staff in the Shellfish Sanitation Branch to continue to be in full compliance with the FDA certification requirements.
- **Legislative Proposal V: Appropriate Funds to the Department of Environment, Health and Natural Resources for the Shellfish Sanitation Branch in the Environmental Health Section of the Division of Health.**

V. Fisheries Resource Grant Program

The Fisheries Resource Grant Program was established in 1994 to fund research proposals that would benefit the fishing industry and the fishery resource. The intent of the program was to enhance the state's coastal fishery resources through individual grants primarily to fishermen to test new equipment, research industry trends, perform environmental pilot studies and study other fishery issues. The administration of the program has been criticized for the following reasons:

1. The request for proposals was not well-publicized, did not provide workshops to encourage fishermen to submit proposals, and occurred too late in the fiscal year.

2. The Division had difficulty in administering the program and providing technical assistance to fishermen at the same time.
3. Many of the proposals approved for funding were submitted by the academic community and did not involve substantial involvement of fishermen.
4. Questions were raised concerning the subject matter of several proposals and whether the projects were eligible for funding under the Program.

The Joint Legislative Commission expressed concern that the intent of the program, i.e., to fund projects proposed by fishermen to protect or enhance the resource, had been lost. The Joint Legislative Commission discussed moving the program to the North Carolina Sea Grant Program due to their experience in managing grants. The following changes in the Program were recommended:

1. The Marine Fisheries Commission would establish priorities of funding in cooperation with fishermen, Sea Grant, and the Division of Marine Fisheries effective July 1st of each year for funding individual projects.
2. Sea Grant would solicit proposals through workshops and would encourage pre-proposal conferences to establish partnerships between fishermen and those with technical or research background to help develop proposals and help write required reports.
3. Every proposal must include substantial involvement of commercial or recreational fishermen or persons involved in aquaculture or mariculture.

4. The Marine Fisheries Commission would consider the rankings developed by Sea Grant, and if consistent with the priorities established, would award grants. No member of the Marine Fisheries Commission may benefit from a grant.
5. Funding for the Program should be reduced while the Program is being evaluated by the Joint Legislative Commission.

The Joint Legislative Commission recommends Legislative Proposal VI:

- **Legislative Proposal VI: Move the Fisheries Resource Grant Program From the Department of Environment, Health and Natural Resources to the Sea Grant College Program.**

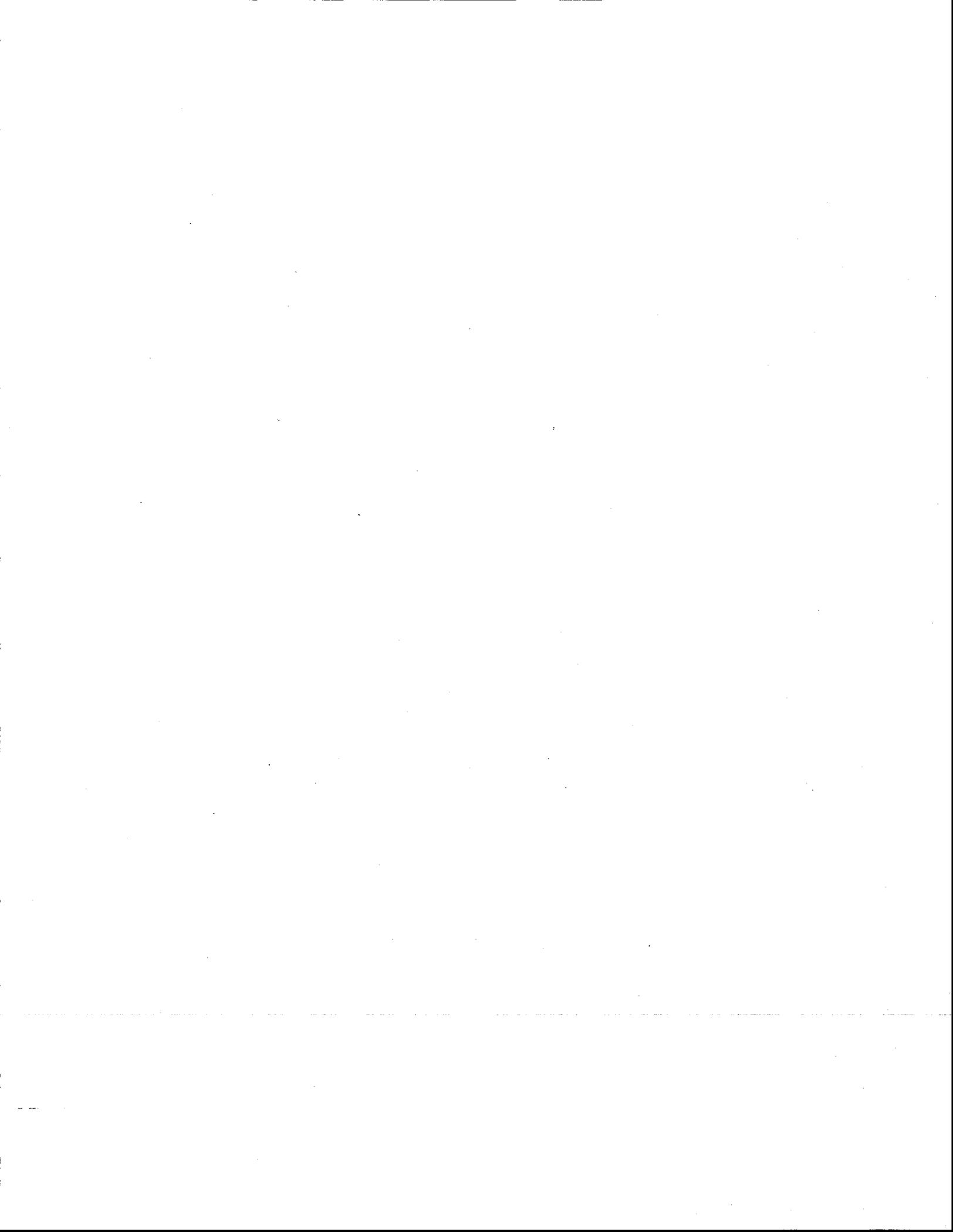
VI. Additional Issues

The Joint Legislative Commission considered a number of other issues that it will continue to study following the 1996 Legislative Session. These issues include:

1. Increasing penalties for theft or destruction of shellfish from an aquaculture facility from a misdemeanor to a felony.
2. Adding yellow perch to the list of fish grown by aquaculture under the Aquaculture Development Act in the Department of Agriculture.
3. Considering a proposal from the Department of Agriculture to allow aquaculture farming of alligators.
4. Studying the use of agriculture and seafood cooperatives that can be utilized to enhance and promote economic development through the production of value added products which include raw material

resources and related infrastructure weaknesses of rural and coastal counties.

APPENDICES



Appendix A

MEMBERS

JOINT LEGISLATIVE COMMISSION ON SEAFOOD AND AQUACULTURE

Speaker's Appointments

Rep. Jean R. Preston
Co-Chair
211 Pompano Dr.
Emerald Isle, NC 28594
(919) 354-6993

Rep. Zeno L. Edwards, Jr.
212 Riverside Dr.
Washington, NC 27889
(919) 946-3714

Rep. Robert Grady
107 Jean Circle
Jacksonville, NC 28540
(910) 455-9359

Rep. Jonathan Robinson
1224 Highway 70
P.O. Box 1128
Stacy, NC 28581
(919) 225-2351

Governor's Appointments

Charles S. Fearing
P.O. Box 300
Wanchese, NC 27981

Bryan Gillikin
3603 Mandy Lane
Morehead City, NC 28557
(919) 728-2136

Gerry Smith
1606 River Bluff Road
Morehead City, NC 28557
(919) 728-4935

Mike Holleman
Right of Way Equipment Co.
5500 Hillsborough St.
Raleigh, N. C. 27606

President Pro Tempore's Appointments

Senator Charles Albertson
Co-Chair
136 Henry Dunn Pickett Road
Beulaville, NC 28518
(910) 298-4223

Senator Luther H. Jordan, Jr.
P.O. Box 701
Wilmington, NC 28402
(910) 763-2441

Senator Robert G. Shaw
P. O. Box 8101
Greensboro, NC 27419
(919) 855-7533

Senator Beverly Perdue
P. O. Box 991
New Bern, NC 28560
(919) 633-2667

Commissioner of Agriculture Appts.

Mr. Doug Brady
Carolina Atlantic Seafood Co.
P.O. Box 3576
Morehead City, NC 28557

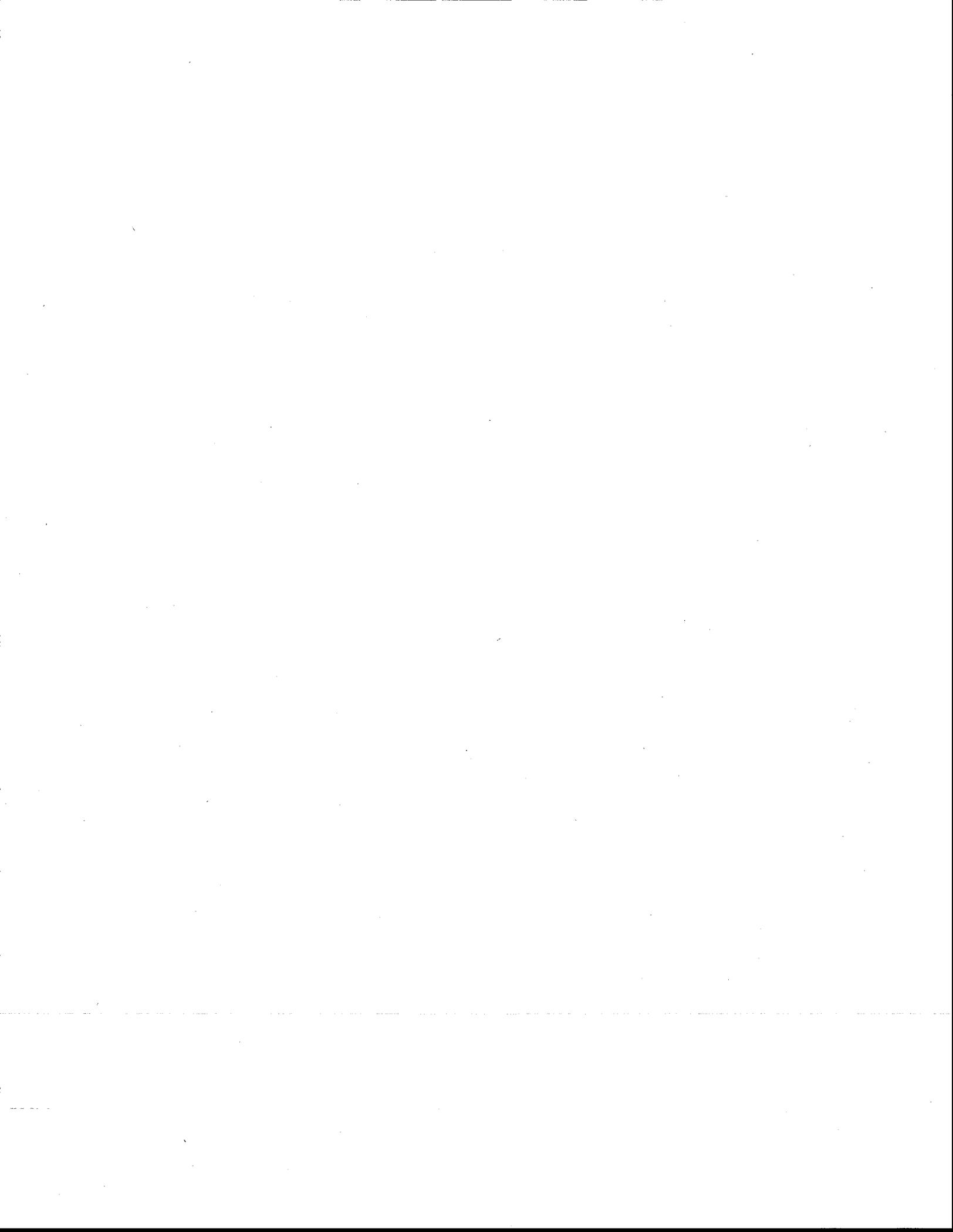
Mr. Robert Mayo
Carolina Classics Catfish, Inc.
Route 2, Box 623
Ayden, NC 28513

Rep. E. David Redwine
P.O. Box 283
Shallotte, NC 28459
(910) 754-4326

Staff

Sherri Evans-Stanton
Commission Counsel
LOB Room 545
(919) 733-2578

Susan Moore
Commission Clerk
LB Room 2117
(919) 733-5664



Appendix B

ARTICLE 12F.

Joint Legislative Commission on Seafood and Aquaculture.

§ 120-70.60. Committee established.

The Joint Legislative Commission on Seafood and Aquaculture is hereby established as a permanent joint committee of the General Assembly. As used in this Article, the term "Commission" means the Joint Legislative Commission on Seafood and Aquaculture.

§ 120-70.61. Membership; cochairmen; vacancies; quorum.

The Joint Legislative Commission on Seafood and Aquaculture shall consist of 15 members: four Senators appointed by the President Pro Tempore of the Senate; four Representatives appointed by the Speaker of the House of Representatives; four members appointed by the Governor; and three members appointed by the Commissioner of Agriculture. The members shall serve at the pleasure of their appointing officer. The President Pro Tempore of the Senate shall designate one Senator to serve as cochairman and the Speaker of the House of Representatives shall designate one Representative to serve as cochairman. Vacancies occurring on the Commission shall be filled in the same manner as initial appointments. A quorum of the Commission shall consist of eight members.

§ 120-70.62. Powers and duties.

The Commission shall have the following powers and duties:

- (1) To monitor and study the current seafood industry in North Carolina including studies of the feasibility of increasing the State's production, processing, and marketing of seafood;
- (2) To study the potential for increasing the role of aquaculture in all regions of the State;
- (3) To evaluate the feasibility of creating a central permitting office for fishing and aquaculture matters;
- (4) To evaluate actions of the Marine Fisheries Division of the Department of Environment, Health, and Natural Resources, the Wildlife Resources Commission of the Department of Environment, Health, and Natural Resources and of any other board, commission, department, or agency of the State or local government as such actions relate to the seafood and aquaculture industries;
- (5) To make recommendations regarding regulatory matters relating to the seafood and aquaculture industries including, but not limited to:
 - a. Increasing the State's representation and decision-making ability by dividing the State between the Atlantic and South Atlantic regions of the National Division of Marine Fisheries; and
 - b. Evaluating the necessity to substantially increase penalties for trespass and theft of shellfish and other aquaculture products;
- (6) To review and evaluate changes in federal law and regulations, relevant court decisions, and changes in technology affecting the seafood and aquaculture industries;
- (7) To review existing and proposed State law and rules affecting the seafood and aquaculture industries and to determine whether any modification of law or rules is in the public interest;

- (8) To make reports and recommendations, including draft legislation, to the General Assembly from time to time as to any matter relating to the powers and duties set out in this section; and
- (9) To undertake such additional studies as it deems appropriate or as may from time to time be requested by the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, either house of the General Assembly, the Legislative Research Commission, or the Joint Legislative Commission on Governmental Operations, and to make such reports and recommendations to the General Assembly regarding such studies as it deems appropriate.

§ 120-70.63. Additional powers.

The Commission, while in the discharge of official duties, may exercise all the powers of a joint committee of the General Assembly provided for under the provisions of G.S. 120-19, and G.S. 120-19.1 through G.S. 120-19.4. The Commission may meet at any time upon the call of either cochairman, whether or not the General Assembly is in session. The Commission may meet in the Legislative Building or the Legislative Office Building upon the approval of the Legislative Services Commission.

§ 120-70.64. Compensation and expenses of members.

Members of the Commission shall receive per diem and travel allowances in accordance with G.S. 120-3.1 for members who are legislators, and shall receive compensation and per diem and travel allowances in accordance with G.S. 138-5 for members who are not legislators.

§ 120-70.65. Staffing.

The Legislative Administrative Officer shall assign as staff to the Commission professional employees of the General Assembly, as approved by the Legislative Services Commission. Clerical staff shall be assigned to the Commission through the Offices of the Supervisor of Clerks of the Senate and Supervisor of Clerks of the House of Representatives. The expenses of employment of clerical staff shall be borne by the Commission.

§ 120-70.66. Funding.

From funds available to the General Assembly, the Legislative Services Commission shall allocate monies to fund the Joint Legislative Commission on Seafood and Aquaculture.

Appendix C

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION
RATIFIED BILLS

CHAPTERS 576, 675, and 770

Unofficial Combination of Ratified Fisheries Moratorium Bills
House Bill 1540, Senate Bill 1436, and House Bill 589

AN ACT TO CREATE A SEPARATE CRAB LICENSE IN CHAPTER 113 OF THE GENERAL STATUTES AND TO ESTABLISH A TWO-YEAR MORATORIUM ON SPECIFIED FISHING LICENSES AND TO MAKE TECHNICAL AND CLARIFYING CHANGES TO CHAPTER 576 OF THE 1993 SESSION LAWS (REGULAR SESSION 1994) CONCERNING THE TWO-YEAR MORATORIUM ON SPECIFIED FISHING LICENSES AND TO AMEND CHAPTER 576 OF THE 1993 SESSION LAWS CONCERNING THE APPEALS PANEL DURING THE FISHERIES MORATORIUM.

Whereas, it is the long-established policy of this State to preserve and protect its marine and estuarine resources for the use and benefit of all North Carolina citizens; and

Whereas, North Carolina's coastal fisheries resources have become stressed by factors which include: (i) overfishing; (ii) environmental impacts, such as water pollution; (iii) loss of wetlands and other fisheries habitat; and (iv) disease; and

Whereas, fishing has been a source of livelihood for many of the State's coastal citizens during the past four centuries, and that North Carolina has a significant interest in preserving and protecting that historical and cultural heritage; and

Whereas, North Carolina's traditional commercial fishermen have been adversely impacted by a number of factors, which include: (i) the decline of fishery populations; (ii) the use of more gear due to that decline; (iii) increasing conflicts between resource users in different fisheries; and (iv) the economic impact of increased State and federal fisheries regulation; and

Whereas, it is in the best interest of the citizens of this State that North Carolina develop, protect, and manage its own fishery resources in lieu of federal regulation of those resources; and

Whereas, the historical method by which the State has established fisheries regulations has resulted in a largely piecemeal approach to proper fisheries management; and

Whereas, these factors make it necessary to establish a two-year moratorium on vessel licenses, endorsements to sell fish, shellfish licenses, and crab licenses in order to conduct a comprehensive study of the fishery industry including: reviewing available measures to control fishing effort, gathering vital

fisheries information, conducting necessary scientific research, studying fisheries management measures taken by other states or resource management organizations (including national and international), and obtaining public comments; Now, therefore,

The General Assembly of North Carolina enacts:

Section 1. Article 14 of Chapter 113 of the General Statutes is amended by adding a new section to read:

"§ 113-153.1. Crab license.

(a) Except as provided in subsection (d) of this section, it is unlawful for an individual to take crabs from the coastal fishing waters of North Carolina for commercial use by any means without having first procured an individual crab license.

(b) It is unlawful for any individual to take crabs for commercial use from the coastal fishing waters of North Carolina without having ready at hand for inspection a current and valid crab license issued to him personally and bearing his correct name and address. It is unlawful for any such individual taking or possessing freshly taken crabs to refuse to exhibit his license upon the request of an officer authorized to enforce the fishing laws.

(c) Individual crab licenses shall be issued annually on a fiscal year basis upon payment of a fee of seven dollars and fifty cents (\$7.50) for residents and one hundred dollars (\$100.00) for nonresidents. Vessel crab licenses shall be issued annually on a fiscal year basis upon payment of a fee of twenty-two dollars and fifty cents (\$22.50) and shall be issued in the name of the owner.

(c1) Persons under 16 years of age are exempt from the license requirements of this section if they are accompanied by their parent or guardian who is in compliance with the requirements of this section or if they have in their possession their parent's or guardian's crab license.

(d) The owner of a vessel licensed under G.S. 113-152 shall be eligible to purchase a vessel crab license for crabs [as an alternative to the purchase of individual licenses] under this section. A vessel crab license authorizes the owner of the vessel and up to two unlicensed persons serving as crew to fish for crabs from that vessel. It is unlawful for the owner of a vessel to take crabs from the coastal fishing waters of North Carolina for commercial use by any means, when unlicensed persons not authorized by the vessel crab license are on the vessel. The vessel crab license issued under this subsection shall be revoked when the owner or any other person using the owner's vessel is convicted of a violation under this section, except for subsection (b).

(e) In the event an individual possessing a crab license changes his name or address or receives one erroneous in this respect, he must within 30 days surrender the license for one bearing the correct name and address. Upon a showing by the individual that the name or address change occurred within the

Added
by
S436
(Ch. 670)

S81436

past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to this subsection.

(f) It is unlawful for an individual issued a crab license to transfer or offer to transfer his license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a crab license from a source not authorized by the Marine Fisheries Commission."

Sec. 2. G.S. 113-154 reads as rewritten:

"§ 113-154. Shellfish and crab licenses. license.

(a) It is unlawful for an individual to take shellfish ~~or crabs~~ from the public or private grounds of North Carolina by mechanical means or for commercial use by any means without having first procured an individual shellfish and ~~crab~~ license.

(b) It is unlawful for any individual to take shellfish ~~or crabs~~ for commercial use from the public or private grounds of North Carolina without having ready at hand for inspection a current and valid shellfish and ~~crab~~ license issued to him personally and bearing his correct name and address. It is unlawful for any such individual taking or possessing freshly taken shellfish ~~or crabs~~ to refuse to exhibit his license upon the request of an officer authorized to enforce the fishing laws.

(c) Shellfish and ~~crab~~ licenses are issued annually on a fiscal year basis upon payment of a fee of ~~fifteen dollars (\$15.00)~~ seven dollars and fifty cents (\$7.50) upon proof that the license applicant is a resident of North Carolina: Provided, that persons under 16 years of age are exempt from the license requirements of this section if they are accompanied by their parent or guardian who is in compliance with the requirements of this section or if they have in their possession their parent's or guardian's shellfish and ~~crab~~ license. ~~Notwithstanding G.S. 113-130, for purposes of this subsection, a North Carolina resident means a person that has resided in North Carolina for six months immediately preceding the application for the shellfish and crab license.~~

(d) In the event an individual possessing a shellfish and ~~crab~~ license changes his name or address or receives one erroneous in this respect, he must within 30 days surrender the license for one bearing the correct name and address. ~~An individual prosecuted for failure to possess a valid license is exonerated if he can show that the invalidity consisted solely of an incorrect name or address appearing in a license to which he was lawfully entitled and that the erroneous condition had not existed for longer than 30 days. Upon a showing by the individual that the name or address change occurred within the past 30 days, the trial court or prosecutor shall dismiss any charges brought pursuant to this subsection.~~

(e) It is unlawful for an individual issued a shellfish and ~~crab~~ license to transfer or offer to transfer his license, either temporarily or permanently, to another. It is unlawful for an individual to secure or attempt to secure a shellfish and ~~crab~~ license from a source not authorized by the Marine Fisheries Commission."

SB 1436

Sec. 3. (a) Except as provided in subsections ~~(b) or (c)~~ (b), (c), or (c1) of this section, the Department shall not issue any new licenses for a two-year period beginning July 1, 1994, and ending June 30, 1996, under the following statutes:

- (1) G.S. 113-152. Vessel licenses.
- (2) G.S. 113-153.1. Crab license.
- (3) G.S. 113-154. Shellfish license.
- (4) G.S. 113-154.1. Nonvessel endorsements to sell fish.

(b) Any resident who possesses a shellfish and crab license or nonresident who possesses a crab license on June 30, 1994, may apply for a crab license issued in accordance with G.S. 113-153.1.

(c) The Department may renew any license issued on or after July 1, 1993, under the following statutes:

- (1) G.S. 113-152. Vessel licenses.
- (2) G.S. 113-154. Oyster, scallop, and clam license (amended, effective January 1, 1994).
- (3) G.S. 113-154. Shellfish and crab license.
- (4) G.S. 113-154.1. Endorsement to sell fish.

(c1)
added
by
SB 1436

(c1) The following exemptions shall apply to the moratorium:

- (1) The owner of a currently valid vessel license may transfer that license upon application to the Division of Marine Fisheries, Morehead City office, to:
 - a. Another vessel purchased by the owner of the original vessel license; or
 - b. The purchaser of the vessel who is otherwise qualified to hold the license under this Article.
- (2) Any person previously exempt from the license requirements when accompanied by their parent or guardian holding the license and who is otherwise qualified, may be issued a Shellfish or Crab license upon application to the Division of Marine Fisheries, Morehead City office.
- (3) Non-vessel endorsement to sell licenses may be issued to the duly designated license agents for tournaments that meet the requirements of the rules of the Marine Fisheries Commission.
- (4) Vessel licenses may be issued on a charter vessel not previously licensed; provided that no vessel endorsement to sell be issued on that vessel.

(d) During the moratorium, there shall be an Appeals Panel to consider license applications for new licenses.

Added
by HB 589
(Ch. 770)

- (1) The Appeals Panel shall consist of the Fisheries Director, Director of the Division of Marine Fisheries of the Department of Environment, Health, and Natural Resources or the Director's designee, the Chairman of the Marine Fisheries Commission, Commission or the Chairman's designee, and one other person selected by the Cochairs of the Joint

Legislative Commission on Seafood and Aquaculture to review hardship or emergency license cases.

(2) The Marine Fisheries Commission shall adopt temporary rules to govern the operation of the Appeals Panel. The Appeals Panel is exempt from the provisions of Article 3 of Chapter 150B of the General Statutes. Decisions of the Appeals Panel shall be subject to judicial review under the provisions of Article 4 of Chapter 150B of the General Statutes.

(3) The Appeals Panel may grant a license if it finds that the denial of the license application would create an emergency or hardship on the individual or the State. In no event shall the Appeals Panel grant a license when the total number of licenses in the specific category would exceed the number of licenses in effect on June 30, 1994.

Added by
HB 589

(4) The Appeals Panel Director of the Division of Marine Fisheries of the Department of Environment, Health, and Natural Resources may grant an emergency temporary license due to death, illness, or incapacity, for a period not to exceed 30 days. Emergency temporary licenses shall be limited to vessel crab licenses authorized under G.S. 113-153.1(d).

(e) During the moratorium, the North Carolina Sea Grant College Program shall conduct an extensive study of the fishery industry including: gathering available information, conducting necessary scientific research, studying other states or resource management organizations (including national and international organizations), and obtaining public comments on recommendations. The North Carolina Sea Grant College Program shall study all issues relating to the fishery resource including, but not limited to:

- (1) Analysis of licensing limitations including the biological, social, and economic impact of seasonal, specific areas, or gear restrictions.
- (2) Comparison of licensing programs.
- (3) Classification and enumeration of user groups.
- (4) Development of management policies and plans for crabs, shellfish, and all other fishery resources.
- (5) Evaluation and development of an effective enforcement mechanism for the licensing program recommended by this study.
- (6) Any other issue relating to the fishery industry.

The North Carolina Sea Grant College Program shall work with the Steering Committee and shall report quarterly to the Joint Legislative Commission on Seafood and Aquaculture and the Marine Fisheries Commission beginning October 1, 1994.

(f) The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall appoint individuals to a 19-member Steering Committee to oversee the study of the fishery resource comprised as follows:

- (1) Chair, Marine Fisheries Commission.
- (2) Director of the Marine Fisheries Division of the Department of Environment, Health, and Natural Resources (or designee).
- (3) Director of the North Carolina Sea Grant College Program (or designee).
- (4) The Cochairs of the Joint Legislative Commission on Seafood and Aquaculture (or designees).
- (5) Two representatives from the commercial fishing industry, one appointed by the President Pro Tempore of the Senate and the other appointed by the Speaker of the House of Representatives.
- (6) One representative from the North Carolina Fisheries Association Auxiliary, appointed by the Speaker of the House of Representatives.
- (7) Three representatives from the recreational fishing industry, one appointed by the Speaker of the House of Representatives and two persons appointed by the President Pro Tempore of the Senate.
- (8) One seafood processor, appointed by the President Pro Tempore of the Senate.
- (9) Two academic fisheries scientists, one appointed by the Speaker of the House of Representatives and the other appointed by the President Pro Tempore of the Senate.
- (10) One ecologist, appointed by the Speaker of the House of Representatives.
- (11) One social scientist, appointed by the President Pro Tempore of the Senate.
- (12) One economist, appointed by the Speaker of the House of Representatives.
- (13) One environmentalist, appointed by the President Pro Tempore of the Senate.
- (14) One representative from aquaculture, appointed by the Speaker of the House of Representatives.

The Chair of the Steering Committee shall be the Chair of the Marine Fisheries Commission.

Sec. 4. During the moratorium, the Marine Fisheries Commission shall be limited in the exercise of its existing authority to regulate and control the commercial and recreational harvest of marine fisheries resources to measures: (i) that prevent further endangerment of the resources; (ii) that involve user conflicts; or (iii) that are necessary to maintain State control of its own fishery resources in order to avoid the exercise of federal fishery management authority over those resources.

Sec. 5. The Joint Legislative Commission on Seafood and Aquaculture may report to the 1995 General Assembly, and shall report on the first day the 1996 Regular Session commences on its findings, together with any recommended legislation.

Sec. 6. Nothing herein contained shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act. If funds are not appropriated for

Added
by
Sec.
17.7
of
the
Budget
bill
(S1925)

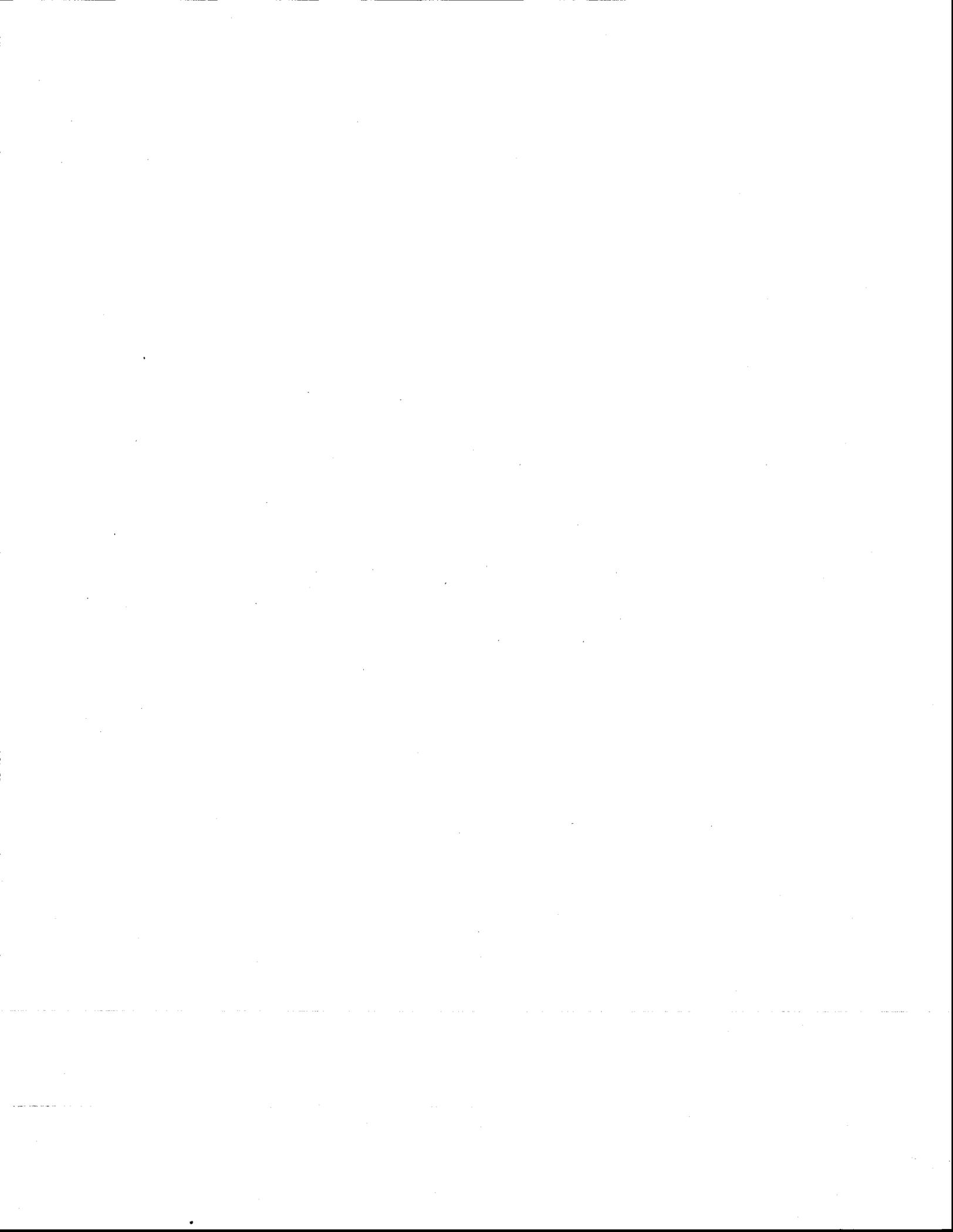
the 1994-95 fiscal year to implement the provisions of Sections 3, 4, or 5 of this act, Sections 3, 4, or 5 shall not become effective. The suspension of the sale of licenses subject to the moratorium in Section 3 of Chapter 576 of this act by the Division of Marine Fisheries beginning on July 1, 1994, is retroactively authorized. License applications which were received but not processed during the suspension shall be determined in accordance with the provisions of Section 3 of this act if the funds are appropriated for the 1994-95 fiscal year to implement Section 3 of this act. If no funds are appropriated for the 1994-95 fiscal year to implement Section 3 of this act, then Section 3 of this act shall not become effective and license applications received but not processed during the suspension shall be determined in accordance with the provisions of Article 14 of Chapter 113 of the General Statutes.

Sec. 7. Chapter 576 (which created the moratorium) became effective July 1, 1994. Chapters 675 and 770 (which made technical changes to the moratorium) became effective on ratification, July 5, 1994 and July 16, 1994, respectively.

Appropriations Relating to the Fisheries Moratorium

Section 9.1 (page 43) of S1505 (Chapter 769 - Budget Bill) appropriates \$25,000 to the Joint Legislative Commission on Seafood and Aquaculture for the 1994-95 fiscal year to support the activities of the steering committee under the moratorium and to support the official activities of the Appeals Panel. Members of the Appeals Panel who are not State employees shall receive, in addition to the allowances provided under G.S. 138-5, compensation at the rate of \$150.00 per diem in lieu of the per diem compensation provided in G.S. 138-5(a)(1).

Section 17.7 (page 70) of S 1505 appropriates \$225,000 to the UNC Board of Governors for the 1994-95 fiscal year for the North Carolina Sea Grant College Program to study the fisheries resource and management structure. The funds may be used for personnel, administrative and consulting costs. (NOTE: this section of the budget bill also added retroactive authority to Section 6 of the moratorium bill).



MORATORIUM STEERING COMMITTEE
GOALS AND OBJECTIVES
DURING THE MARINE FISHERIES LICENSE MORATORIUM
16 November 1994, DRAFT

- I. POST-MORATORIUM FISHERIES MANAGEMENT GOALS.
 - A. Achieve a healthy and stable marine fisheries resource through reduction of both harvest pressure and environmental degradation of fisheries habitats.
 - B. Regulate and manage fisheries resources in an efficient and effective manner.
 - C. Equitably manage use of a public resource owned by all North Carolina citizens.
 - D. Dedicate sources of revenue to sustain and enhance the State's marine and estuarine resources.
- II. MORATORIUM STUDY OBJECTIVES FOR ACHIEVING GOALS (Examples of potential studies that would address each objective are listed parenthetically).
 - A. GOAL: Achieve a healthy and stable marine fisheries resource through reduction of both harvest pressure and environmental degradation of fisheries habitats.
 1. OBJECTIVE: Delineate and protect critical fisheries habitats.
(Define [where necessary] and map submerged aquatic vegetation, oyster rocks, anadromous fish spawning areas, and other critical fisheries habitats; prioritize critical fisheries habitats in terms of biological and economic importance, abundance, protection status, or other criteria; develop appropriate gear restrictions for all critical fisheries habitats; etc.)
 2. OBJECTIVE: Appropriately reduce and limit the amount of commercial fishing gear in use in North Carolina waters.
(Study the viability and effect of placing specific limits on amounts of gear that may be used both commercially and recreationally in specific areas/fisheries; define, for licensing purposes, the term "commercial fisherman" [via some commercial use eligibility requirement such as resource use frequency, or an income dependency requirement], and assess the effect of restricting the sale of fisheries resources to commercial fishermen only; assess other methods of limiting entry into state commercial fisheries; study the viability of designating "fisheries reserve" [no gear] areas within state waters; etc.)
 3. OBJECTIVE: Minimize adverse, fishing activity/gear-related impacts to North Carolina's marine and estuarine resources and environment.
(Identify and quantify, by area, adverse impacts to the State's marine and estuarine resources and environment from all lawful fisheries gear and/or activities; study the viability of designating "fisheries reserve" areas within state waters; assess the biological, economic and legal feasibilities of increasing the proportion of marketable seafood produced via aquaculture; etc.)

4. **OBJECTIVE:** Minimize adverse, non-fishing related impacts to North Carolina's marine and estuarine resources and environment.
(Identify and quantify adverse impacts to the State's marine and estuarine resources and environment from non-fishing related activities; assess the feasibility of wetland "pre-/post-treatment" sewage systems for all entities discharging to streams; etc.)
 5. **OBJECTIVE:** Eliminate or minimize non-directed fisheries mortality.
(Determine what level of by-catch mortality is acceptable for each commercial gear/fishery; assess current, and potential, use of gear technologies to minimize by-catch; develop appropriate gear restrictions for all critical fisheries habitats; etc.)
 6. **OBJECTIVE:** Restore marine fisheries that are either overfished or otherwise in a state of decline.
(Determine the criteria that indicate a healthy [restored] stock, and target fisheries management plans [FMPs] to achieve that goal; assess the factors responsible for the decline of each affected marine fishery and recommend specific management measures to restore the stocks; etc.)
- B. **GOAL:** Regulate and manage fisheries resources in an efficient and effective manner.
1. **OBJECTIVE:** Ensure that the North Carolina Division of Marine Fisheries is functionally organized to adequately conserve, protect and manage state marine and estuarine resources.
(Assess current Division organization for institutional and policy impediments to efficient and effective resource management as set out in the Moratorium Steering Committee's Goals and Objectives; study the organizational structures of fisheries agencies in other states; etc.)
 2. **OBJECTIVE:** Improve North Carolina's fisheries management data base pertaining to commercial and recreational harvests.
(Assess the adequacy of current fisheries harvest data; define "critical harvest data" and assess the feasibility of making reporting a condition of licensing, in lieu of "endorsement to sell" requirement; study methods used by other states to obtain fisheries harvest data; etc.)
 3. **OBJECTIVE:** Integrate systems (rather than single species) management principles into FMPs to the highest practicable degree.
(Study the specific fisheries needs and problems in each state estuarine system and compare results; assess potential for interface between state fisheries management and DEM's "basinwide" approach to managing water quality in North Carolina; etc.)
 4. **OBJECTIVE:** Achieve an appropriate balance of statutory, rule and proclamation regulation of marine fisheries.
(Assess and critique historical and potential roles of proclamation, rule and statutory authorities in managing fisheries in North Carolina; study institutional and legal mechanisms for managing marine fisheries in other states; etc.)
 5. **OBJECTIVE:** Minimize redundancy and overlap in state and federal regulation of fisheries resources.

(Assess the interface between state and federal species-specific FMPs; study the potential for cooperative management agreements between North Carolina fisheries agencies and the Atlantic States Marine Fisheries Commission and/or the South Atlantic Fisheries Management Council; etc.)

6. **OBJECTIVE:** Ensure adequate state enforcement of all fisheries laws.
(Establish enforcement priorities based on the overall ability of a practice to safeguard public health and protect public fisheries resources; study the desirability of changing state law to allow Division of Marine Fisheries Inspectors to enforce federal fisheries laws; assess officer training needs for more effective fisheries law enforcement; determine the reasonable manpower needs for enforcement of fisheries laws in North Carolina; etc.)
7. **OBJECTIVE:** Simplify the marine fisheries licensing process.
(Study the viability of replacing the current "mixed" vessel and individual commercial licensing scheme with a comprehensive licensing system based on a consolidated, individual license; determine the feasibility of defining and differentially licensing fisheries resource user groups [e.g., "full-time commercial" fishers, "part-time commercial" fishers, "recreational" fishers using commercial gear, and "hook-and-line recreational" fishers]; define "critical harvest data" and assess the feasibility of making reporting a condition of licensing, in lieu of the "endorsement to sell" requirement; etc.)

C. **GOAL:** Equitably manage use of a public resource owned by all North Carolina citizens.

1. **OBJECTIVE:** Ensure that the cost of using state marine and estuarine resources is commensurate with adverse impacts to the resource resulting from the specific user activity.
(Assess the viability of a licensing system where license cost is based on adverse impact of gear used upon fisheries and fisheries habitat; assess the current criminal penalty structure and the potential use of civil penalties for fisheries law violations, including replacement costs; determine the feasibility of defining and differentially licensing fisheries resource user groups [e.g., "full-time commercial" fishers, "part-time commercial" fishers, "recreational" fishers using commercial gear, and "hook-and-line recreational" fishers]; etc.)
2. **OBJECTIVE:** Ensure adequate protection of marine and estuarine public trust lands and waters.
(Assess the areal extent of private structures [including "fixed gears" such as pound nets, and private docks and piers] in North Carolina waters and their adverse impacts on fisheries resources; examine the State's current submerged lands and public waters leasing program and recommend improvements; identify the appropriate interface between the Division of Marine Fisheries and the Marine Fisheries Commission, and other state agencies responsible for regulating and protecting public lands and waters; etc.)
3. **OBJECTIVE:** Manage marine and estuarine resources for all citizens, rather than only for those seeking to harvest fisheries resources.

(Study the potential for a fisheries licensing system that requires licenses for all persons harvesting marine and estuarine resources, including non-fisheries resources; assess the viability of designating "fisheries reserve" areas within state waters; assess the feasibility of, and appropriate mechanisms for, "pre-conflict" zoning of coastal areas for exclusive use by specific user groups, not limited to fishermen; determine the importance of marine and estuarine resources to non-fishing related ecotourism; etc.)

4. **OBJECTIVE:** Ensure that fisheries management strategies do not unreasonably burden traditional North Carolina fishermen.

(Assess the historical, current and anticipated numbers of participants -- both commercial and recreational -- in each state fishery; determine the amount of gear in use statewide for each gear type, the area of use, and the "status" of the user; assess potential means for state involvement in educating/re-training part-time commercial fishers for other means of livelihood; develop a cost-share program for Best Fishing Practices [BFPs] as suggested by the APES Comprehensive Conservation and Management Plan; etc.)

D. **GOAL:** Dedicate sources of revenue to sustain and enhance the State's marine and estuarine resources.

1. **OBJECTIVE:** Determine the appropriate level of funding required to sustain marine and estuarine resources.

(Identify and prioritize critical resource funding needs in North Carolina fisheries; determine the level of funding expended by other states in restoring and enhancing their marine fisheries resources; etc.)

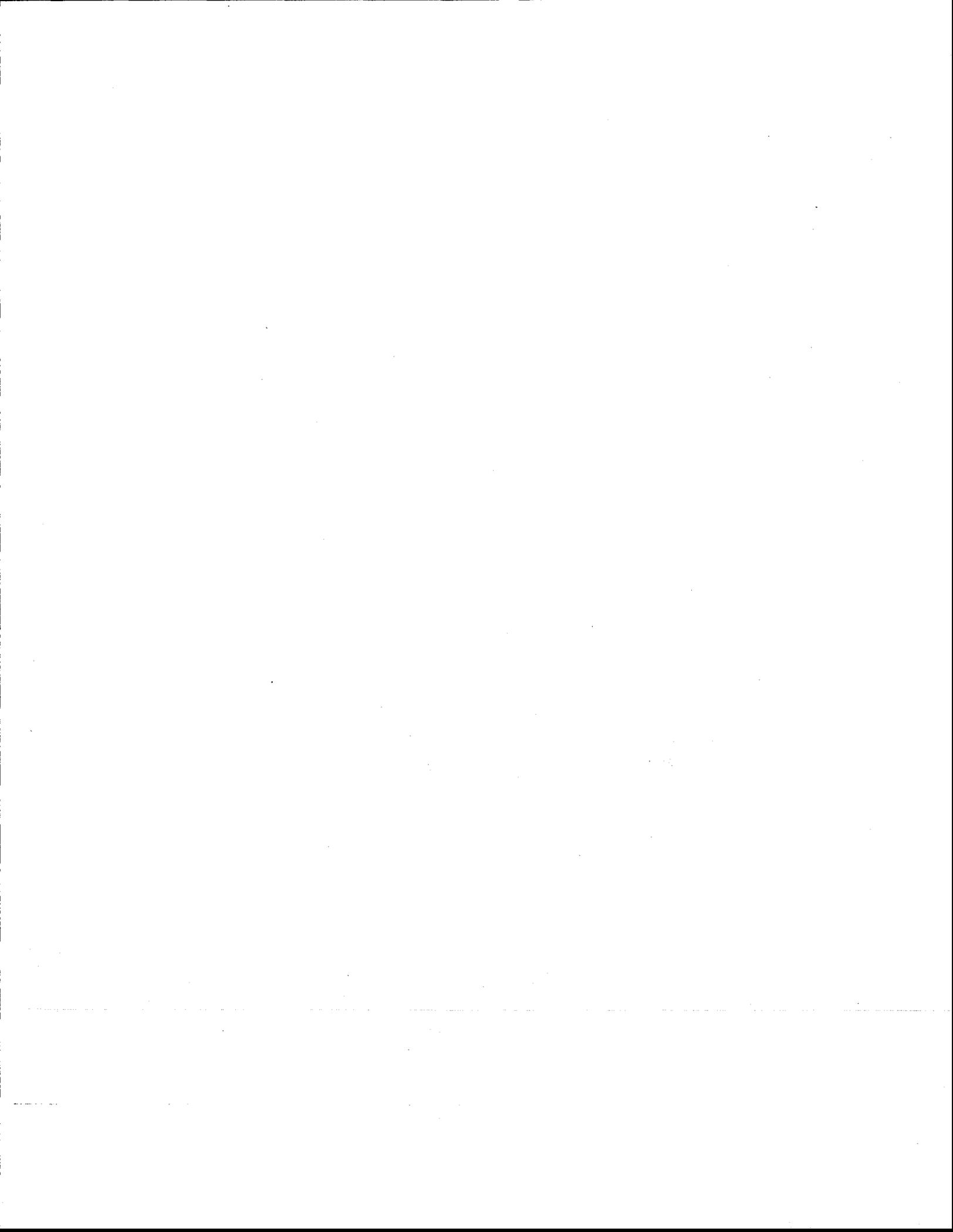
2. **OBJECTIVE:** Identify and secure potential sources of dedicated fisheries restoration and enhancement funds.

(Assess fee generation based on requiring specific gear and/or species "licenses" in order to commercially participate in state fisheries; assess fee generation methods used by other states; study the viability of fish stamp/print sales as a significant revenue generator; determine the potential legal and institutional mechanisms for dedicating state funds; etc.)

3. **OBJECTIVE:** Implement an effective, ongoing state program of fisheries habitat protection, restoration and enhancement.

(Assess and prioritize critical fisheries habitat needs; determine and recommend potential changes in actions/policies of non-fisheries state agencies that would protect and enhance marine and estuarine resources, and mechanisms to achieve that end; determine the factors responsible for the decline of each affected marine fishery and recommend specific management measures to restore the stocks; etc.)

LEGISLATIVE PROPOSALS



DRAFT

Legislative Proposal I

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S/H

D

96-RDZ-004(3.26)

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

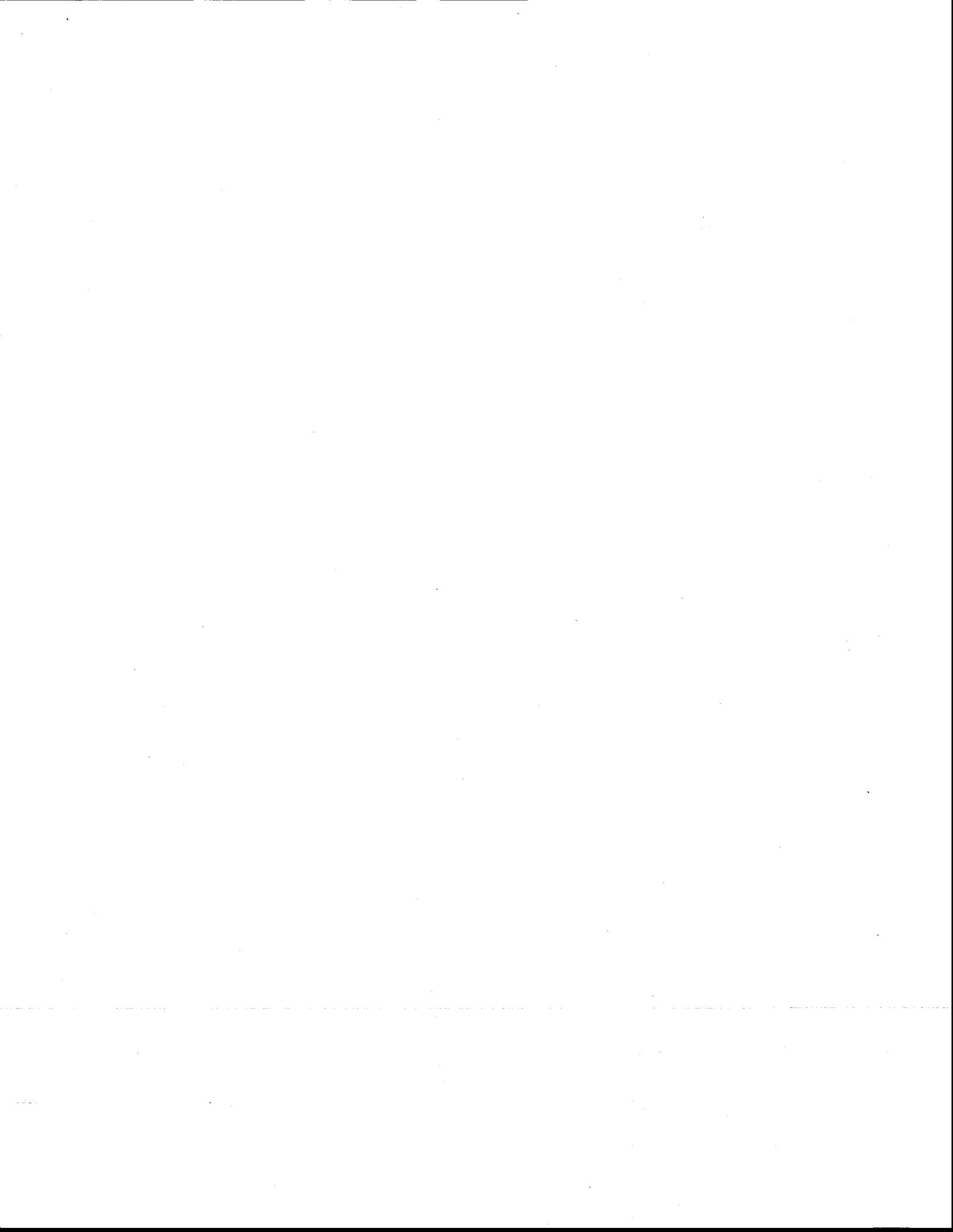
09:11:11 EZT / 19-APR-96

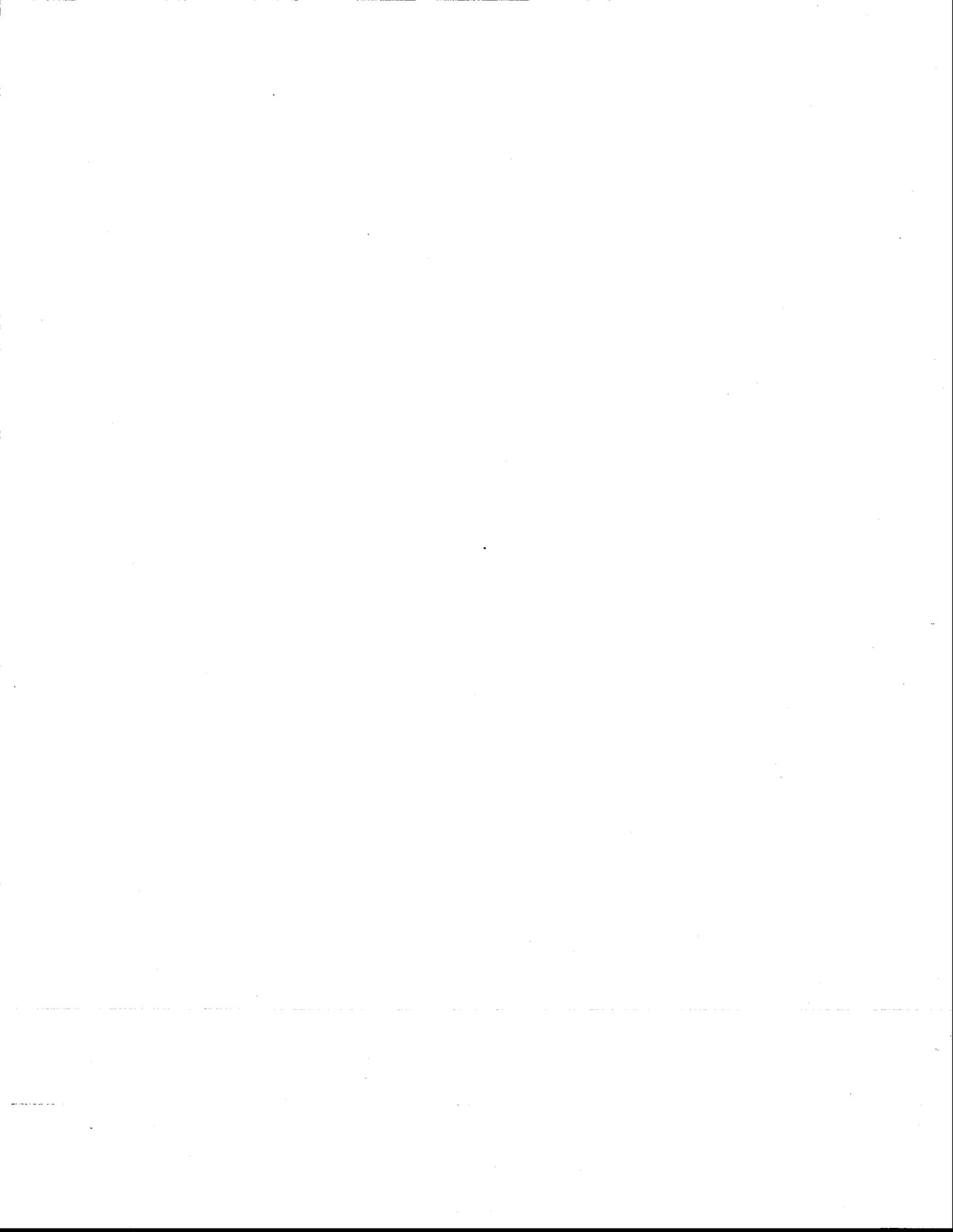
Short Title: Extend Fisheries Moratorium Report Date. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE DATE OF THE MORATORIUM STEERING COMMITTEE'S
3 FINAL REPORT AND TO EXTEND THE DATE THAT THE JOINT LEGISLATIVE
4 COMMISSION ON SEAFOOD AND AQUACULTURE IS REQUIRED TO REPORT.
5 The General Assembly of North Carolina enacts:
6 Section 1. Section 5 of Chapter 576 of the 1993 Session
7 Laws reads as rewritten:
8 "Sec. 5. The Moratorium Steering Committee shall make its
9 final report to the Joint Legislative Commission on Seafood and
10 Aquaculture on or before November 1, 1996. The Joint Legislative
11 Commission on Seafood and Aquaculture ~~may~~ shall report to the
12 ~~1995 1997~~ General Assembly, ~~and shall report on the first day the~~
13 ~~1996~~ Regular Session commences Assembly on its findings,
14 together with any recommended legislation."
15 Sec. 3. This act is effective upon ratification.





DRAFT

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S/H

D

96-RDZ-005(3.26)
(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)
09:11:34 EZT / 19-APR-96

Short Title: Employees on Shellfish Leases/Franchises. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT RECOMMENDED BY THE JOINT LEGISLATIVE COMMISSION ON SEAFOOD
3 AND AQUACULTURE TO ALLOW EMPLOYEES ON SHELLFISH LEASES AND
4 FRANCHISES TO WORK WITHOUT POSSESSING AN INDIVIDUAL SHELLFISH
5 LICENSE.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 113-154(c1) reads as rewritten:
8 "(c1) A shellfish leaseholder under G.S. 113-202, or a water
9 column leaseholder under G.S. 113-202.1 or G.S.
10 113-202.2, or a franchise holder under G.S. 113-206 who purchases
11 an individual shellfish license under this section, may utilize
12 up to two additional persons to take shellfish from the
13 leaseholder's lease without purchasing additional individual
14 shellfish licenses. The leaseholder shall be on the premises
15 supervising the person or persons, and the person or persons
16 shall be restricted to taking shellfish only from the
17 leaseholder's lease employ persons who do not possess individual
18 shellfish licenses, provided that the employees have proof of

1 employment on hand, if requested for inspection by a Marine
2 Fisheries officer to verify lawful activities on the lease."
3 Sec. 2. This act is effective upon ratification.

Legislative Proposal IV

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

96-RDZ-006.5(4.30)

THIS IS A DRAFT 8-MAY-96 09:31:19

DRAFT

Short Title: Prohibit Shellfish Leases in Core Banks. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE ISSUANCE OF NEW SHELLFISH CULTIVATION
3 LEASES IN CORE BANKS AND TO REQUIRE THAT THE JOINT LEGISLATIVE
4 COMMISSION ON SEAFOOD AND AQUACULTURE STUDY THE SHELLFISH LEASE
5 PROGRAM.
6 Section 1. (a) Notwithstanding G.S. 113-202, the Secretary
7 of the Department of Environment, Health, and Natural Resources
8 shall not grant shellfish cultivation leases for the area along
9 Portsmouth Island and Core Banks.
10 (b) For purposes of this act the area along Portsmouth
11 Island and Core Banks is the area bounded by a line beginning
12 at the northern tip of Portsmouth Island at 35°03'42"N -
13 76°02'06"W and running 339°M to a point on North Rock at
14 35°06'18"N - 76°04'00"W, thence 243°M to Hodges Reef Light at
15 35°02'42"N - 76°10'00"W, thence, 229.5°M to Marker No. 37
16 located 0.9 miles off Bells Point at 34°43'30"N - 76°29'00"W,
17 thence, 207°M to the Cape Lookout Lighthouse at 34°37'24"N -
18 76°31'30"W, thence enclosed on the east by Core Banks and
19 Portsmouth Island back to the point of beginning.
20 Sec. 2. This act does not prohibit the renewal or transfer
21 of shellfish cultivation leases in Core Sound in accordance
22 with G.S. 113-202 if the lease being renewed or transferred
23 existed prior to or on the effective date of this act.

1 Sec. 3. The Joint Legislative Commission on Seafood and
2 Aquaculture shall study the shellfish lease program and shall
3 consider the following issues: (1) preservation of areas used
4 substantially by commercial and recreational fishermen; (2)
5 establishment of a maximum percentage of available water body
6 for leases; (3) restrictions on shellfish lease sizes and
7 whether leases may be contiguous; (4) production requirements;
8 (5) evaluation of profitability of leases after period of time;
9 and (6) any other related issues. The Joint Legislative
10 Commission shall report its findings and recommendations to the
11 1997 General Assembly.

12 Sec. 4. This act is effective May 1, 1996 and applies to
13 any pending shellfish application or lease.

DRAFT

DRAFT

Legislative Proposal V

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

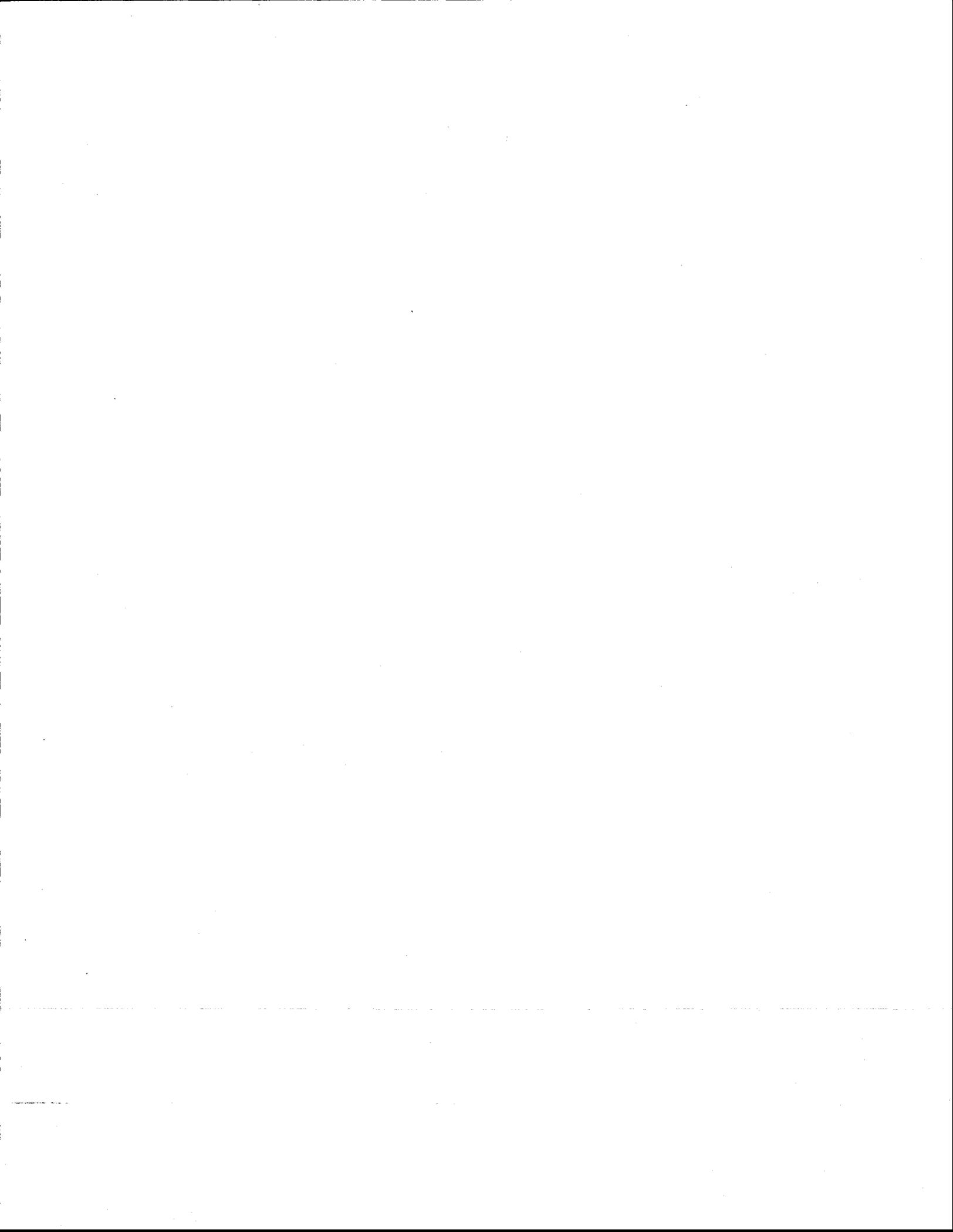
96-RD\$-008-(4.16)
(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Fund Shellfish Sanitation. (Public)

Sponsors: .

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO APPROPRIATE FUNDS TO THE DEPARTMENT OF ENVIRONMENT,
3 HEALTH, AND NATURAL RESOURCES FOR THE SHELLFISH SANITATION
4 BRANCH IN THE ENVIRONMENTAL HEALTH SECTION OF THE DIVISION OF
5 HEALTH.
6 The General Assembly of North Carolina enacts:
7 Section 1. There is appropriated from the General Fund
8 to the Department of Environment, Health, and Natural Resources,
9 Division of Environmental Health, the sum of two hundred thirty
10 thousand, four hundred and three dollars, (\$230,403) for the
11 1996-97 fiscal year for four positions and for administrative and
12 other expenses to support the shellfish sanitation program.
13 Sec. 4. This act becomes effective July 1, 1996.



DRAFT

Legislative Proposal VI

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

96-RDZ-002.2(4.15)
THIS IS A DRAFT 18-APR-96 16:10:45

Short Title: Fisheries Resource Grant Program. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO COORDINATE THE FISHERIES RESOURCE GRANT PROGRAM IN THE
3 NORTH CAROLINA SEA GRANT COLLEGE PROGRAM AT THE UNIVERSITY OF
4 NORTH CAROLINA.
5 The General Assembly of North Carolina enacts:
6 Section 1. Article 15 of Chapter 113 is amended by
7 adding a new section to read:
8 § 113-190. Fishery Resource Grant Program. (a) Creation. There
9 is created within the Sea Grant College Program at The University
10 of North Carolina, the Fishery Resource Grant Program. The
11 purpose of the program is to work within priorities established
12 by the Marine Fisheries Commission to protect and enhance the
13 State's coastal fishery resources through individual grants in
14 the following areas:
15
16 (1) new fisheries equipment or gear;
17 (2) environmental pilot studies, including water
18 quality and fisheries habitat;
19 (3) aquaculture or mariculture; or
20 (4) seafood technology;
21 (b) Annual Establishment of Priorities. The Commission
22 shall, in cooperation with fishermen, the Division of Marine
23 Fisheries, and the Sea Grant College Program, establish
24 priorities effective July 1 of each year for the grant program.

1 The adoption of priorities by the Commission shall not be
2 considered rulemaking within the meaning of the Administrative
3 Procedure Act. The Commission shall provide public notice of its
4 proposed priorities at least 30 days before the Commission
5 meeting prior to a final determination of its priorities for the
6 fiscal year.

7 (c) Procedure to Solicit Proposals. Following the
8 establishment of priorities by the Commission, Sea Grant shall
9 hold workshops within each of the coastal regions to solicit
10 applications and to assist fishermen in writing proposals. Sea
11 Grant shall encourage pre-proposal conferences between
12 individuals in the fisheries industry and those with technical or
13 research background to work as partners in developing and writing
14 the proposals and in writing final report results. If the grants
15 approved by the Commission do not utilize all available funds,
16 Sea Grant may solicit additional applications for that grant
17 period.

18 (d) Application for Grant Program. An applicant may apply
19 for grant funds to the Sea Grant College Program. For purposes
20 of this subsection, the primary applicant listed on the
21 application shall be a fisherman and every proposal shall include
22 substantial involvement of active North Carolina recreational or
23 commercial fishermen, aquaculturalists or mariculturalists. An
24 application shall include, but not be limited to the following:

- 25 (1) Name and address of the primary applicant;
- 26 (2) List of licenses issued to the applicant by the
27 State of North Carolina;
- 28 (3) A description of the project;
- 29 (4) A detailed statement of the projected costs of the
30 project including the cost to plan and design the
31 project;
- 32 (5) An explanation of how the project will enhance the
33 fishery resource;
- 34 (6) List of names and addresses of any other persons
35 who will participate in the project; and
- 36 (7) Any other information necessary to make a
37 recommendation on the application.

38 (e) Review Process. Sea Grant shall conduct an anonymous
39 peer review of all applications for fisheries grants. Each
40 application for a fisheries grant shall be reviewed by at least
41 one fisherman. Applications shall be confidential and shall not
42 be defined as a public record as defined under G.S. 132-1 until
43 after the closing date for submission of applications. Following
44 the review of all proposals, Sea Grant shall rank proposals in

1 order of priority and shall present the recommendations to the
2 Commission. Any criterion used by Sea Grant in ranking proposals
3 shall not require rulemaking within the meaning the
4 Administrative Procedure Act, but such criteria shall be public
5 records as defined in G.S. 132-1.

6 (f) Award Process. The Commission shall review the ranking
7 of proposals, and if consistent with the priority rankings
8 established under subsection (e) of this Section, shall fund
9 those proposals. Applications that include involvement by
10 fishermen in the project shall be accorded a priority in funding
11 by the Commission. The Commission shall award grants from funds
12 allocated to the Department of Environment, Health, and Natural
13 Resources. The Commission shall distribute grant funding among
14 the northern, southern, central, and Pamlico coastal regions.

15 (g) Restrictions on Grants. No member of the Commission may
16 benefit financially from a grant. If a grant recipient from a
17 prior year has failed to perform a grant project to the
18 satisfaction of the Commission, the Commission may decline to
19 fund any new application involving the principal applicant.

20 (h) Grant Report. Grant recipients shall prepare annual
21 updates on projects that are approved for funding over more than
22 one year, and shall submit a final written report to the
23 Commission upon conclusion of the project.

24 (i) Report on Grant Program. Sea Grant shall report on an
25 annual basis to the Marine Fisheries Commission and the Joint
26 Legislative Commission on Seafood and Aquaculture.

27 Sec. 2. Of the funds appropriated to the Department of
28 Environment, Health, and Natural Resources, the sum of \$10,000
29 may be used by the Sea Grant College Program to administer the
30 Fisheries Resource Grant Program.

31 Sec. 3. This act is effective upon ratification.